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NEW PLANT PATENT
APPLICATION TRANSMITTAL

(to be used for new applications only)

Attorney Docket Number

First Named Inventor

Christopher B. Howe

Total Pages in this Submission

APPLICATION ELEMENTS


Notice Checklist items mentioned under Application Elements section construct a new plant patent application. Please refer to MPEP Sections 506, 601, 1600 (37 CFR 1.53, 35 USC 111, 112, 113) for detailed explanation regarding completeness of an original plant application.

ACCOMPANYING APPLICATION PARTS

1. ☒ Fee Transmittal Form (prescribed filing fee(s))
2. ☒ Specification
3. ☐ Drawing(s) in duplicate (as prescribed by 35 USC 165)
4. ☒ Executed Declaration
5. ☒ Plant Color Coding Sheet

6. ☒ Assignment Papers
7. ☐ Certified Copy of Priority Document(s)
(if foreign priority is claimed)
8. ☐ English Translation Document (if applicable)
9. ☐ Information Disclosure Statement/PTO-1449 ☐ Copies of IDS Citations
10. ☐ Petition Checklist and Accompanying Petition
11. ☐ Preliminary Amendment
12. ☐ Proprietary Information
13. ☒ Return Receipt Postcard
14. ☒ Small Entity Statement
15. ☐ Additional Enclosures (please identify below)

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Hortech, Inc. - David S. MacKenzie, General Manager
Signature	
Date	3-15-2003

FOR OFFICIAL USE ONLY

Application Number		Class		Independent Claims	
Date of Receipt	Application Type		GAU		Total Claims
	Filing Date		Foreign Filing License?		Drawing Sheets
	Small Entity		Foreign Address?		Special Handling?

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**VERIFIED STATEMENT CLAIMING SMALL ENTITY STATUS
(37 CFR 1.9(f) & 1.27(b))—INDEPENDENT INVENTOR**

Docket Number (Optional)

Applicant or Patentee Hortech, Inc. /contact David S. MacKenzie

Application or Patent No. _____

Filed or Issued _____

Title general manager of Hortech, Inc.

As a below named inventor, I hereby declare that I qualify as an independent inventor as defined in 37 CFR 1.9(c) for purposes of paying reduced fees to the Patent and Trademark Office described in

- ☐ the specification filed herewith with title as listed above
☐ the application identified above.
☒ the patent identified above

I have not assigned, granted, conveyed, or licensed, and am under no obligation under contract or law to assign, grant, convey, or license, any rights in the invention to any person who would not qualify as an independent inventor under 37 CFR 1.9(c) if that person had made the invention, or to any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

Each person, concern, or organization to which I have assigned, granted, conveyed, or licensed or am under an obligation under contract or law to assign, grant, convey, or license any rights in the invention is listed below:

- ☒ No such person, concern, or organization exists.
☐ Each such person, concern, or organization is listed below.

Separate verified statements are required from each named person, concern, or organization having rights to the invention averring to their status as small entities (37 CFR 1.27)

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

Christopher B. Howe
NAME OF INVENTOR

x Ch Howe
Signature of inventor

x 2/17/00
Date

Hortech, Inc./David S. MacKenzie
NAME OF INVENTOR

[Signature]
Signature of inventor

2/17/00
Date

NAME OF INVENTOR

Signature of inventor

Date

**VERIFIED STATEMENT CLAIMING SMALL ENTITY STATUS
 (37 CFR 1.9(f) & 1.27(c))—SMALL BUSINESS CONCERN**

Docket Number (Optional)

Applicant or Patentee Hortech, Inc. /David S. MacKenzie
 Application or Patent No. _____
 Filed or Issued _____
 Title general manager of Hortech, Inc.

I hereby declare that I am

- ☐ the owner of the small business concern identified below;
☒ an official of the small business concern empowered to act on behalf of the concern identified below

NAME OF SMALL BUSINESS CONCERN Hortech, Inc.

ADDRESS OF SMALL BUSINESS CONCERN P.O. Box 533
Spring Lake, MI 49456

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 CFR 121.12, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees to the United States Patent and Trademark Office, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time, or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention described in:

- ☐ the specification filed herewith with title as listed above.
☐ the application identified above.
☒ the patent identified above.

If the rights held by the above identified small business concern are not exclusive, each individual, concern, or organization having rights in the invention must file separate verified statements averring to their status as small entities, and no rights to the invention are held by any person, other than the inventor, who would not qualify as an independent inventor under 37 CFR 1.9(c) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d), or a nonprofit organization under 37 CFR 1.9(e)

- Each person, concern, or organization having any rights in the invention is listed below
☒ no such person, concern, or organization exists.
☐ each such person, concern, or organization is listed below

Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27)

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that wilful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such wilful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed

NAME OF PERSON SIGNING David S. MacKenzie

TITLE OF PERSON IF OTHER THAN OWNER general manager of Hortech, Inc.

ADDRESS OF PERSON SIGNING P.O. Box 533 Spring Lake, MI 49456

SIGNATURE

David S. MacKenzie

DATE 2-15-2000

PLANT PATENT APPLICATION FOR Sedum purpureum 'Pink Chablis'

The present invention comprises a new and distinct cultivar of Sedum purpureum, hereafter referred to by the cultivar name 'Pink Chablis'

'Pink Chablis' is a new and distinct variety of showy stonecrop, a succulent clump forming cold hardy perennial from Asia. 'Pink Chablis' is unique and outstanding for its broad, horizontally carried, flat-tened leaves with white-variegated margins.

In addition, 'Pink Chablis' bears broad rounded clusters of white bud-ded, pink fallborne flowers.

On February 28, 1996 international registration as an herbaceous (in this case succulent) plant cultivar was applied for. The international registrar at the International Plant Union in Freising Germany approved the application for registration on March, 22 1996.

'Pink Chablis' originated as a branch sport (mutation) from the species Sedum purpureum and is similar to the parent species in the morphology of its flowers stems and foliage. The first successful asexual reproduction of 'Pink Chablis' was carried out by its discoverer, Chris Howe, employee of Hortech. This propagation took place under controlled conditions in Nunica, Michigan, on June 15, 1995.

The sport was excised, treated with 3000 ppm IBA, and rooted under intermittent mist over a period of two weeks. One cutting rooted and was transplanted for evaluation.

'Pink Chablis' has not been observed under all possible environmental conditions, and the phenotype may vary significantly with variations in environment, such as temperature, light intensity and day length. The following observations, measurements, and comparisons describe this plant as grown in Nunica, Michigan when container grown (outdoors without cover) in conditions that approximate those generally used in commercial practice.

BRIEF DESCRIPTION OF THE VARIOUS VIEWS OF THE DRAWINGS

The accompanying photographic illustrations show typical foliage of the cultivar and the closest known comparison plant (the cultivar Sedum 'Frosty Morn') with color being as accurate as possible with renditions of this type. The photographs were taken at 1:00 P.M. July 1st (foliage depictions) and September 1st (floral depictions) 1999 under cloudy conditions, in Nunica, Michigan. The film used was Fujifilm ISO 200 exposed for 1/30 second at F8 using no filters.

Illustrations 1-2 are perspective views of Sedum purpureum 'Pink Chablis'. Illustrations 3 to 4 are perspective views of Sedum purpureum 'Frosty Morn'.

The following traits have been repeatedly observed and are determined to be the basic characteristics of 'Pink Chablis', which in combination distinguish this showy stonecrop as a new and distinct cultivar. The color codes correspond to The Royal Horticultural Society Color Chart.

1. Deciduous foliage is simple, opposite, and sometimes whorled. In youth, the foliage is obovate in outline, 1 inch long, 1/2 inch wide, serrate above the middle, hairless, tacky to the touch, and colored light-green 129-C. Leaf margins are colored green white 157-A, 1/16 inch to 3/16 inch wide. Petioles at this stage are wiry, 1/16 inch wide, colored light-green 129-C.
2. In maturity, the foliage is obovate in outline, hairless, 3 - 3 1/2 inches long, 1 1/2 - 2 inches wide colored green 129-A with slender irregular areas of lighter green 129-C. Leaf margins are colored green white 157-A. 1/8 inch to 3/8 inch wide. Petioles at this stage are thickened, 1/4 inch wide, colored green 128-D.
3. The midvein is light green 130-C and is only slightly raised above the blade. It gives rise to smaller and equally visible secondary veins of the same color.
4. Stems are herbaceous and arise vertically from a clump. Typically they are erectly oriented. Stems reach 14 to 18 inches in length, 1/4 to 1/2 inch wide. The stems are round in cross section and range from 1/4 inch to 3/8 inch wide. In youth and in maturity they are colored green 128-D.
5. Internodes range in length from 1 to 1 1/2 inches.
6. Bisexual flowers are pink, 64-C, and borne in August, lasting through September. Individual flowers are 1/4 inch wide and 5 petaled. The panicles are 5 to 6 1/2 inches wide, dense, with 20 to 30 forked branches. Flowers exude a mild sweet fragrance. The flowers are with five red pistils 1/4 to 3/8 inch in length, five stamens 1/4 to 3/8 inch in length and 5 white sepals 1/32 inch wide and 1/16 inch long.
7. Aggregate fruit is 1/16 inch to 2/16 inch in length, 1/32 to 2/32 inch wide at the base rising to a pointed tip.

Other cultivars of Sedum purpureum include 'Frosty Morn', which differs in having more slender curled leaves orientated at 45 degree angles from the stems. The flowers of 'Frosty Morn' are less dense and uni-form. The panicles are 3 to 4 inches wide with 10-20 forked branches.

Illustration 1: First Named Inventor: Christopher B. Howe



	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
1	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100



[illegible]

Illustration 4:



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PLANT PATENT APPLICATION (35 USC §161) DECLARATION

☒ Declaration Submitted with Initial Filing OR ☐ Declaration Submitted after Initial Filing

Attorney Docket Number	
First Named Inventor	Christopher B. Howe
COMPLETE IF KNOWN	
Application Number	
Filing Date	2-15-2000
Group Art Unit	
Examiner Name	

As a below named inventor, I hereby declare that:

My residence, post office address, and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the new and distinct variety of

Sedum purpureum

plant named 'Pink Chablis'

which is claimed and for which a plant patent is sought, the specification of which

☒ is attached hereto OR ☐ was filed on (MM/DD/YYYY) as United States

Application Number and was amended on (MM/DD/YYYY) (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claim, as amended by any amendment specifically referred to above
 I have asexually reproduced the plant to which this application applies.

☒ Said plant was found in a cultivated area (check this box for newly found plant only)

I acknowledge the duty to disclose information which is material to patentability as defined in Title 37 Code of Federal Regulations, § 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code §119 (a)-(d) or §365(b) of any foreign application(s) for patent or inventor's certificate, or §365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or of any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Check Only if Priority Not Claimed	Certified Copy Attached?	
				YES	NO
Sedum #8	Stauden-Union	3/22/96	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
International			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Freising, Germany			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

☐ Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB.02B attached hereto

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below

Application Number(s)	Filing Date (MM/DD/YYYY)	<input type="checkbox"/> Additional provisional application numbers are listed on a supplemental priority data sheet PTO/SB.02B attached hereto

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DECLARATION – Plant Patent Application

I hereby claim the benefit under Title 35, United States Code §120 of any United States application(s) or §365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of Title 35, United States Code §112 I acknowledge the duty to disclose information which is material to patentability as defined in Title 37 Code of Federal Regulations §1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application

U.S. Parent Application Number	PCT Parent Number	Parent Filing Date (MM/DD/YYYY)	Parent Patent Number (if applicable)

☐ Additional U.S. or PCT international application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto

As a named inventor, I hereby appoint the following registered practitioner(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

☐ Customer Number → Place Customer Number Bar Code Label here
OR
☐ Registered practitioner(s) name/registration number listed below

Name	Registration Number	Name	Registration Number

☐ Additional registered practitioner(s) named on supplemental Registered Practitioner Information sheet PTO/SB/02C attached hereto.

Direct all correspondence to. ☐ Customer Number OR ☒ Correspondence address below

Name	David S. MacKenzie				
Address	Hortech, Inc.				
Address	P.O. Box 533				
City	Spring Lake	State	MI	ZIP	49456
Country	U.S.A.	Telephone	616-842-1392	Fax	616-842-3273

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that wilful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such wilful false statements may jeopardize the validity of the application or any patent issued thereon.

Name of Sole or First Inventor:		<input type="checkbox"/> A petition has been filed for this unsigned inventor			
Given Name (first and middle (if any))			Family Name or Surname		
Christopher B.			Howe		
Inventor's Signature				Date	2/17/00
Residence: City	Nunica	State	MI	Country	U.S.A.
Post Office Address					
Post Office Address	13595 State Rd.				
City	Nunica	State	MT	ZIP	49448
				Country	U.S.A.

☐ Additional inventors are being named on the _____ supplemental Additional Inventor(s) sheet(s) PTO/SB/02A attached hereto